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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,241	06/22/2005	Stephane Clauss	2002P01382WOUS	1614

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EXAMINER	
BASICHAS, ALFRED	

ART UNIT	PAPER NUMBER
3749	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/540,241	CLAUSS ET AL.	
	Examiner	Art Unit	
	Alfred Basichas	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/22/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The reference to the claim numbers at the top of page two is ambiguous and should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "possibly" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-19, 21, and 26-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Damrath (5938425), which shows all of the claimed limitations including, among other things,

15. A gas cooking apparatus, comprising: at least one gas burner 2; a control system 4 for adjusting the heat output of said gas burner; said control system including at least one control organ 41 arranged in a gas main 40 leading to said gas burner; said control system controls said control organ to adjust a gas throughput supplied to a burner nozzle of said gas burner; at least one secondary line 30 coupled to said burner nozzle in parallel to said control organ; said secondary line including an allocated shut-off organ 31 for opening and closing said secondary line; and said secondary line formed to have a flow resistance (42 or friction) which restricts the gas throughput in said secondary line, said flow resistance lower than a flow resistance formed by said burner nozzle (inherent that the fuel line is larger than the nozzle port(s), otherwise insufficient flow).

16. The gas cooking apparatus according to claim 15, including said secondary line flow resistance 42 which restricts said gas throughput is formed by the smallest transmission cross-section in said secondary line.

17. The gas cooking apparatus according to claim 16, including said smallest transmission cross-section in said secondary line is larger than the transmission cross-section of said burner nozzle (inherent, otherwise insufficient fuel pressure at nozzle).

18. The gas cooking apparatus according to claim 16, including said secondary line is open at least when a maximum gas throughput is set (inherent to open secondary line when maximum fuel flow is desired).

19. The gas cooking apparatus according to claim 18, including said secondary line is closed when a partial gas throughput is set and said secondary line is only open when said maximum gas throughput is set (inherent that closing the secondary line will allow for minimum fuel flow to the burner).

21. The gas cooking apparatus according to claim 15, including said control system including a plurality of control organs, said control organs provided in a plurality of separate control lines branching off from said gas main and said control organs switched in parallel to one another (see at least fig. 1).

26. The gas cooking apparatus according to claim 21, including said control system is designed so that a plurality of part gas throughputs (Q.sub.1 to Q.sub.7) increase up to about sixty percent (60%) of a maximum gas throughput (Q.sub.8) in a substantially constant first increase (functional recitation of which the device shown by Damrath is capable of performing).

27. The gas cooking apparatus according to claim 26, including in a second

increase said part gas throughputs (Q.sub.1 to Q.sub.7) increase from about sixty percent (60%) of said maximum gas throughput (Q.sub.8) to said maximum gas throughput (Q.sub.8) which is greater than said first increase (functional recitation of which the device shown by Damrath is capable of performing).

28. The gas cooking apparatus according to claim 21, including when a maximum gas throughput (Q.sub.8) is set, said gas main, especially said control lines branching off from said gas main, are open (inherent that all the lines would be completely open to provide for maximum fuel flow).

29. A method for controlling a gas cooking apparatus including at least one gas burner, comprising: adjusting the heat output of the gas burner; providing at least one control organ arranged in a gas main leading to said gas burner; controlling said control organ to adjust a gas throughput and supplying said gas throughput to a burner nozzle of said gas burner; coupling at least one secondary line to said burner nozzle in parallel to said control organ; said secondary line including an allocated shut-off organ for opening and closing said secondary line; and forming said secondary line to have a flow resistance which restricts the gas throughput in said secondary line, said flow resistance lower than a flow resistance formed by said burner nozzle (see at least previous claims).

30. The method according to claim 29, including forming said secondary line flow resistance which restricts said gas throughput by the smallest transmission cross-section in said secondary line (see at least previous claims).

31. The method according to claim 30, including forming said smallest transmission cross-section in said secondary line larger than the transmission cross-section of said burner nozzle(see at least previous claims).

32. The method according to claim 29, including opening said secondary line at least when a maximum gas throughput is set (see at least previous claims).

33. The method according to claim 32, including closing said secondary line when a partial gas throughput is set and only opening said secondary when said maximum gas throughput is set (see at least previous claims).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 20 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damrath (5938425), which discloses substantially all of the claimed limitations. Damrath does not specifically recite:

> 20. The gas cooking apparatus according to claim 15, including said shut-off organ for opening and closing said secondary line is constructed as an unthrottled control valve.
>
> 34. The method according to claim 29, including forming said shut-off organ for opening and closing said secondary line as an unthrottled control valve.

The specific type of valve recited in the claims is an obvious modification based on design choice, and depends on availability and cost. In view of the absence of criticality for this particular design, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate it into the invention disclosed by Damrath, so as to provide for availability and cost. In addition, Official Notice is given that an unthrottled control valve is old and well known in the art. Such an arrangement has the clear and obvious benefit of providing for effective fluid control. Accordingly, it would have been

obvious to one of ordinary skill in the art at the time of the invention to incorporate the claimed valve into the invention disclosed by Damrath, so as to provide for effective fluid control.

10. Claims 22-25 (24 as understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Damrath (5938425), which discloses substantially all of the claimed limitations. Damrath does not specifically recite:

> 22. The gas cooking apparatus according to claim 21, including said control lines and said secondary line are constructed in a common housing.
>
> 23. The gas cooking apparatus according to claim 21, including said control and said secondary lines each have a mounting opening in said common housing for inserting said control organs.
>
> 24. The gas cooking apparatus according to claim 23, including said mounting opening of said secondary line is closed, possibly by a closure element (61).
>
> 25. The gas cooking apparatus according to claim 24, including said mounting opening of said secondary line is closed by a closure element.

The claimed housing design is an obvious modification based on design choice, and depends on spatial considerations. In view of the absence of criticality for this particular design, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate it into the invention disclosed by Damrath, so as to provide for spatial considerations.

Prior Art

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references disclose burners with many, if not all, of the claimed components. Nevertheless, in order to avoid overburdening the applicant with redundant rejections, these references were not applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone numbers for the organization where this application or proceeding is assigned are 571 273 8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

August 23, 2006

Alfred Basichas
Primary Examiner